

REMARKS

At the time of the Third Office Action dated November 26, 2008, claims 4-7, 14, 16-57, and 60-62 were pending. Of those claims, claims 6-7, 14, 35-57 and 60-62 have been rejected and claims 4-5 and 16-34 have been withdrawn from consideration pursuant to the provisions of 37 C.F.R. § 1.142(b).

CLAIMS 14 AND 60-62 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON GOLDHOR ET AL., U.S. PATENT NO. 5,231,670 (HEREINAFTER GOLDHOR), IN VIEW OF PORTER, U.S. PATENT NO. 4,829,576

On pages 2 and 3 of the Third Office Action, the Examiner concluded that one having ordinary skill in the art would have considered the claimed invention to be obvious in view of Goldhor and Porter. This rejection is respectfully traversed.

In response to arguments presented on pages 15-19 of the Second Response filed March 24, 2009 (hereinafter the Second Response), the Examiner asserted the following in the paragraph spanning pages 9 and 10 of the Third Office Action:

Regarding claims 14 and 60-62, Applicant argues Goldhor does not disclose a voice utterance is recognized either as an utterance to be converted to a corresponding signal or as a voice utterance to be converted to a command to a program. The Examiner cannot concur. At col. 3, line 38 to col. 4, line 57, Goldhor teaches the speech event analyzer 16 generates a list or set of possible candidates that represent the voice input processed by the speech signal processor 14. The speech event analyzer 16 transmits the candidate sets to a dictation event subsystem 18. The dictation event subsystem 18 analyzes the candidate sets and chooses the "BEST MATCH", i.e. the candidate with the highest degree of similarity. This candidate is then considered the correct translation, and the dictation event subsystem forwards the translation to text event subsystem 20 which in turn inputs the translated text to an application. Additionally, Goldhor teaches that when a particular candidate is chosen as best match generally represents the spelling of that particular candidate word or phrase and that the translation may also be any other legal input into a particular application, and the translation may in fact be used to control the application by voice. The translation may also include input to the recognizer whereby the operation of the recognizer can be controlled and its state changed. (emphasis added)

1
2 The underlined portion in the above-reproduced passage represents the Examiner's sole response
3 to Applicant's arguments. The verbiage prior to the underlined portion merely repeats what
4 Applicant has argued and the verbiage after the underlined portion is a word-for-word
5 reproduction of column 3, lines 49-60 and column 4, lines 7-15 of Goldhor. As such, the
6 Examiner's alleged "response" is non-responsive to Applicant's prior arguments.

7
8 In this regard, the Examiner is referred to M.P.E.P. § 707.07(f), entitled "Answer All
9 Material Traversed," which clearly states that upon Applicants traversing the Examiner's
10 rejection, "the examiner should, if he or she repeats the rejection, take note of the applicant's
11 argument and answer the substance of it." Although the Examiner has repeated the rejection, the
12 Examiner has not answered the substance of Applicants' arguments. Instead, the Examiner
13 simply asserted that the Examiner disagrees without explanation. Thus, the Examiner has failed
14 to follow the specific directions of the M.P.E.P. in this matter.

15
16 For the reasons already submitted in the Second Response and unanswered by the
17 Examiner within the Third Office Action, the Examiner has failed to establish that the claimed
18 invention, as recited in claims 14 and 60-62, would have been obvious within the meaning of 35
19 U.S.C. § 103. Applicants, therefore, respectfully solicit withdrawal of the imposed rejection of
20 claims 14 and 60-62 under 35 U.S.C. § 103 for obviousness based upon Goldhor and Porter.

**CLAIMS 6 AND 7 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON
GOLDHOR IN VIEW OF TORRES, U.S. PATENT NO. 4,821,211 (HEREINAFTER TORRES)**

On pages 3-5 of the Third Office Action, the Examiner concluded that one having ordinary skill in the art would have considered the claimed invention to be obvious in view of Goldhor and Torres. This rejection is respectfully traversed.

In response to arguments presented on pages 19 and 20 of the Second Response, the Examiner asserted the following in the first full paragraph on page 10 of the Third Office Action:

Regarding claims 6 and 7, Applicant argues Goldhor neither teaches nor contemplates a "command string" that includes a command positioning a pointer "at coordinates specified relative to a graphical element of a configuration other than the pointer." In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Examiner's reliance upon In re Keller and In re Merck is misplaced.

One of the Graham factual inquiries is to ascertain the differences between the prior art and the claims at issue. As clearly pointed out within the second response, claim 6 recites "a command string including a command positioning said pointer at coordinates relative to a graphical element of said configuration other than said pointer." The Examiner's analysis, however, fails to allege that either Goldhor or Torres teaches these particular limitations. Therefore, the Examiner has not properly ascertained the differences between the prior art and the claims at issue since the Examiner has failed to make the finding that either Goldhor or Torres teach "a command string including a command positioning said pointer at coordinates relative to a graphical element of said configuration other than said pointer," as claimed. Thus,

1 identifying errors in the Examiner's Graham analysis is proper. Since the Examiner has failed to
2 cure these errors, the Examiner has failed to establish a prima facie case under 35 U.S.C. § 103.

3
4 For the above-described reasons, the Examiner has failed to establish that the claimed
5 invention, as recited in claims 6 and 7, would have been obvious within the meaning of 35 U.S.C. §
6 103. Applicants, therefore, respectfully solicit withdrawal of the imposed rejection of claims 6 and
7 7 under 35 U.S.C. § 103 for obviousness based upon Goldhor and Torres.

8
9 **CLAIMS 35-40 AND 52-57 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS**

10 **BASED UPON TORRES**

11 On pages 5-7 of the Third Office Action, the Examiner concluded that one having ordinary
12 skill in the art would have considered the claimed invention to be obvious in view of Torres. This
13 rejection is respectfully traversed.

14
15 In response to arguments presented on pages 20 and 21 of the Second Response, the
16 Examiner asserted the following in the paragraph spanning pages 10 and 11 of the Third Office
17 Action:

18 Regarding claims 35-40 and 52-57, Applicant argues Torres does not disclose or render
19 obvious launching an application program without invoking a control signal that can be invoked in
20 response to a pointing device on a machine. Applicant also argues Torres does not disclose or
21 render obvious displaying a menu without invoking a control signal that may be sent by a pointing
22 device. In response, the Examiner argues Torres teaches a method and apparatus for navigating
23 among program menus using a graphical menu tree and provides a description of well access
24 computer applications and manage windows by graphically designating graphic representations
25 and manipulating those graphical representations via voice interaction. Torres suggests control is
26 provided by either keyboard, mouse, touch screen or voice interaction, so as to provide control by
27 keyboard or mouse or touch screen or voice interaction. Torres' specific teaching that the system
28 allows for navigating program menus and the well known cursor functionality for permitting users
29 to access computer applications and manage windows which can be achieved via voice interaction
30 provides adequate support for launching an application program without invoking a control signal
31 that can be invoked in response to a pointing device on a machine as well as displaying a menu
32 without invoking a control signal that may be sent by a pointing device.

1
2 The Examiner's analysis is entirely conclusory. The Examiner does not explain how Torres
3 launches an application program without invoking the control signal or explain why this would
4 be obvious. Instead, the Examiner concludes it would have been obvious without any
5 explanation. The Examiner alleging that Torres teaches manipulating graphical representations
6 via voice interaction neither discloses nor renders obvious the particular manner in which the
7 claimed invention launches an application program.

8
9 For the above-described reasons, the Examiner has failed to establish that the claimed
10 invention, as recited in claims 35-40 and 52-57, would have been obvious within the meaning of 35
11 U.S.C. § 103. Applicants, therefore, respectfully solicit withdrawal of the imposed rejection of
12 claims 35-40 and 52-57 under 35 U.S.C. § 103 for obviousness based upon Torres.

13
14 **CLAIMS 41-51 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON**
15 **TORRES IN VIEW OF PORTER**

16 On pages 7-9 of the Third Office Action, the Examiner concluded that one having ordinary
17 skill in the art would have considered the claimed invention to be obvious in view of Torres and
18 Porter. This rejection is respectfully traversed.

19
20 In response to arguments presented on pages 21 and 22 of the Second Response, the
21 Examiner asserted the following in the first full paragraph on page 11 of the Third Office Action:

22 Regarding claims 41-51, Applicant argues the rejection does not address the limitation
23 for manipulating a graphical item separately from the cursor. The Examiner cannot concur.
24 Porter's system provides for manipulating items displayed to the user via voice commands as well
25 as manipulating menus so as to display a particular menu of choices (search or find file) and for
26 the selection of the desired displayed command without the cursor. Torres teaches specific
27 manipulation of graphical representations, and thus the combination of Torres and Porter provide
28 adequate support for the manipulation of graphical items separately from the cursor.

1
2 Applicants disagree with the Examiner's characterizing of Porter. Porter teaches the
3 manipulation of textual items – not a "one other graphical item" within a graphical user interface,
4 as claimed. Thus, the Examiner has mischaracterized the scope and content of Porter.

5
6 For the above-described reasons, the Examiner has failed to establish that the claimed
7 invention, as recited in claims 41-51, would have been obvious within the meaning of 35 U.S.C. §
8 103. Applicants, therefore, respectfully solicit withdrawal of the imposed rejection of claims 41-51
9 under 35 U.S.C. § 103 for obviousness based upon Torres and Porter.

Applicant has made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicant hereby respectfully requests reconsideration and prompt allowance of the pending claims.

Although Applicant believes that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 503839, and please credit any excess fees to such deposit account.

Date: May 26, 2009

Respectfully submitted,

/Scott D. Paul/

Scott D. Paul

Registration No. 42,984

Steven M. Greenberg

Registration No. 44,725

Phone: (561) 922-3845

CUSTOMER NUMBER 29973